

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CAITLIN BRICE; et al.,

Plaintiffs - Appellees,

v.

ALFRED GONZALEZ,

Objector - Appellant,

v.

ZOOM VIDEO COMMUNICATIONS,

INC., a Delaware corporation,

Defendant - Appellee.

No. 23-15103

D.C. No. 3:20-cv-02155-LB
U.S. District Court for Northern
California, San Francisco

**REPLY IN SUPPORT OF
NAMED PLAINTIFFS AND
SETTLEMENT CLASS
MEMBERS–APPELLEES’
MOTION TO DISMISS APPEAL**

On January 26, 2023, the Court of Appeal issued an Order directing Objector-Appellant Alfred Gonzalez (“Gonzalez”) to (1) pay the required fees to the District Court and (2) file proof of such payment, or a motion to proceed in forma pauperis, in the Court of Appeal, within 21 days of the Order, **or by February 16, 2023.** *See* Order at Dkt. No. 2-1.

In moving to dismiss, Appellees – the District Court-appointed Lead Plaintiffs in this class action – established that Gonzalez failed to comply with the Order. Indeed, to this day, the dockets for the District Court and this Court show no receipt of any payment. Gonzalez has yet to show he paid any fees, filed a motion to proceed in forma pauperis, or filed a proof of payment. The Order’s February 16, 2023 deadline has long passed.

Gonzalez’s opposition claims that the motion to dismiss was “hasty and moot” because he already complied with the Court’s Order. However, the opposition shows no such thing, merely attaching a portion of a USPS tracking record reflecting delivery of an undescribed-package to an undescribed-address in San Francisco. There was, and still is, no record of any payment made to the District Court or any proof of payment filed with this Court.

This is not a minor procedural issue. This case settled back in July 2021, and over one million Settlement Class Members await their distributions. Gonzalez, whose standing to appeal is questionable, filed a notice of appeal immediately

stopping that distribution and asserting meritless grounds for that appeal. Gonzalez then refused to withdraw his appeal, waited until the very last day to oppose this motion, and still has not complied with this Court's Order.

For all these reasons, Appellees ask the Court to dismiss Gonzalez's appeal.

Respectfully submitted,

COTCHETT, PITRE & McCARTHY LLP

DATED: February 28, 2023

By: /s/ *Mark C. Molumphy*
Mark C. Molumphy
Mark C. Molumphy
Tyson C. Redenbarger
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Telephone: 650.697.6000
Facsimile: 650.697.0577
mmolumphy@cpmlegal.com
tredenbarger@cpmlegal.com

AHDOOT & WOLFSON, PC

By: /s/ *Tina Wolfson*
Tina Wolfson
Tina Wolfson
Robert R. Ahdoot
Theodore W. Maya
2600 W. Olive Avenue, Suite 500
Burbank, CA 91505
Telephone: 310-474-9111
Facsimile: 310-474-8585
twolfson@ahdootwolfson.com
rahdoot@ahdootwolfson.com
tmaya@ahdootwolfson.com

Lead Counsel for Appellees and the Class

CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2023, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

COTCHETT, PITRE & McCARTHY LLP

By: /s/ *Mark C. Molumphy*
Mark C. Molumphy

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, hereby certify that:

- 1) I am an employee in the office of Cotchett, Pitre & McCarthy, LLP;
and
- 2) On February 28, 2023, I SERVED a true and correct copy of the attached, by placing said copy in a postage paid envelope addressed to the person hereinafter listed by depositing said envelope in the U.S. Mail, or by placing said copy into an interoffice delivery receptable located in our office of Cotchett, Pitre & McCarthy, LLP.

Alfred Gonzalez
1440 W Taylor Street #607
Chicago, IL 60670

Dated: February 28, 2023

Jeanine H. Acosta
Legal Assistant

By: 
Jeanine H. Acosta